IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 19200 of 2003

Between:

K SURYA KUMARI, W/O AZIZ, R/O KURAVI, WARANGAL DISTRICT

.... PETITIONER

AND

1 AP TRIBAL WELFARE RESIDENTIAL EDUCATIONAL

INSTITUTIONS SOCIETY, Rep by its Member Secretary
Gurukulam, Masab Tank, Hyderabad
2 G. Nagavalli, TGT Maths, A.P.T.W. RESIDENTIAL SCHOOL/JUNIOR

COLLEGE (GIRLS), KURAVI, WARANGAL DISTRICT

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction more particularly one in nature of writ of mandamus declaring as illegal, arbitrary and contrary to Para 4 of the Presidential Order, 1975 the proceedings of the 1st respondent in Rc.No.Admn.I(1)/7777/02 dated
18-07-2003 in so far petitioner is concerned and the consequential proceedings Rc.No.Admn.I(1)/4602/2003 dated 20-08-2003 transferring the petitioner from APTW Residential School, Kuravi, Warangal to APTW Residential School, Y. Ramavaram, East Godavari District and issue a consequential direction to the 1st respondent to retain the petitioner in zone - V per allotment order dated 10-10-2002 and pass such other order or further orders as are deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.D.V.SITARAMAMURTHY

Counsel for the Respondent No.1: None Appeared
Counsel for the Respondent No.2: MR.G. CHANDRAIAH

The Court made the following order:

ORDER:

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Petitioner was appointed as Trained Graduate Teacher (TGT) in Maths; basing on the recommendation of a duly constituted selection committee, the Secretary, A.P.R.E.I Society, vide his proceedings dated 23.06.1992 appointed the petitioner and posted her at Andhra Pradesh Residential School, Asifabad, Adilabad District.

The State Government issued orders in G.O.Ms.No.51 Social Welfare Department dated 03.06.1998 for the purpose of bifurcation and constitution of A.P.Tribal Welfare Residential Educational Institutions Society as an exclusive society with required autonomy and functional flexibility to take care of enrolment of tribal children and improvement in quality of education imparted to them. Pursuant to the said bifurcation options were called for from the employees either to continue in A.P.R.E.I or to go to the newly formed respondent society.

As the husband of the petitioner was also working as Post Graduate Teacher both of them opted to be transferred to the respondent society. Accordingly, the petitioner and her husband were permanently allotted to the respondent society.

The State Government issued instructions to the first respondent to allot the TGT's to their respective zones in the respondent society. Accordingly, the first respondent

asked the employees to give their options to be allotted in the respective zones. The petitioner and her husband opted Zone-V for their allotment. In pursuance of the orders of the first respondent vide his proceedings dated 10.10.2002 and also as per the Annexure –1 TGT Maths, the petitioner was allotted to Zone-V (Non-local). It is stated that the said proceedings have become final as no objections were filed within a period of 60 days as per the Presidential Order.

The petitioner was continued in Zone-V and subsequent transfer was also made within Zone-V as per the order of the first respondent dated 28.06.2003. Thereafter it appears that several persons have made representations for change of their respective zones. Pursuant to the said representations the first respondent passed orders dated 18.07.2003 changing zone of the petitioner from Zone-V to Zone-II. The representation of the second respondent was considered and her zone was changed from Zone-II to Zone-V. Pursuant to the change of the said allotment of the zones vide orders dated 18.07.2003, there was a counseling for posting of said TGT's. The second respondent has opted for her posting at Zone-V in the place of the petitioner. As the petitioner attended the counseling and refused to exercise her option, the first respondent through proceedings dated 20.08.2003 transferred the petitioner from Kuravi, Warangal District (Zone-V) to Y. Ramavaram, East Godavari District (Zone-II). Aggrieved by the said orders, the petitioner filed this writ petition.

Heard both the learned counsel at length.

Learned counsel for the petitioner submits that as per the Presidential Order in G.O.Ms.No.674 General Administration (SPE-A) Department dated 20.10.1975 in Para 4 relating to the allotment of the persons to the respective zones, persons holding posts required to be organized into local cadres shall be allotted to such cadres by the authorities in accordance with principles and procedure specified. The guidelines issued under the said Presidential Order, while allotting persons to local cadres, specify that consideration has to be taken with regard to the administrative needs of the posts in the local cadres, the need for the composition of the balanced local cadres with reference to age and seniority groups, the length of service of the persons concerned in the part of the State for which the local cadre is organized,

knowledge of the persons concerned of the language spoken and the law in force in the part of the State for which the local cadre is organized and the preference of the persons concerned for allotment to any local cadre, where feasible. Once the allotment is made and any person aggrieved by the order of the said allotment to any local cadre may submit a representation to the State Government within a period of 60 days from the date of communication of the order. On receipt of such representation the concerned authority shall consider the representation and pass such order as it deems fit. If such order is likely to result in the change of allotment of any other person, such person shall be given a reasonable opportunity for making a representation.

Admittedly, by proceedings dated 10.10.2002 the petitioner was allotted to Zone-V. After such allotment the zone of the petitioner was changed by proceedings dated 18.07.2003. Admittedly, no notice has been issued to the petitioner before the change of the zone giving her a reasonable opportunity. Therefore, I am of the view that as the change of zone itself is illegal and against the principles of natural justice and the consequential transfer order, though the petitioner attended the counseling and refused to exercise her option, is of no consequence. As the change of zone is against the principles of natural justice and for the aforesaid reasons, the impugned orders are set aside and accordingly the writ petition is allowed.

However, it is open for the respondent to issue a notice before change of the zone by giving a reasonable opportunity to the petitioner against the process of change of zone and pass appropriate orders. No costs.

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V. ESWARAIAH, J

September 29, 2004

Dsk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Wednesday the Twenty Ninth day of September Two thousand and Four.

To

1 The Member Secretary, A.P. Tribal Welfare Residential Educational Institutions Society, Gurukulam, Masab Tank, Hyderabad.

2 Two CD Copies.